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|--|-------------|----------------------|---------------------|------------------|
| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/608,911   | 06/27/2003  | David Armes          | 03292.101720        | 7059             |
| 66569  | 7590        | 04/18/2008           |                     |                  |
| FITZPATRICK CELLA (AMEX)<br>30 ROCKEFELLER PLAZA<br>NEW YORK, NY 10112 |             |                      | EXAMINER            |                  |
|  |             |                      | CUFF, MICHAEL A     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 3627   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                     |
|------------------------------|--------------------------------------|-------------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/608,911 | <b>Applicant(s)</b><br>ARMES ET AL. |
|                              | <b>Examiner</b><br>Michael Cuff      | <b>Art Unit</b><br>3627             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 January 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1.3-10.13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 3-10 and 13-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/136/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### DETAILED ACTION

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halliday et al. in view of Suorsa, Yu, Roche, Vaghi and Taylor et al.

Halliday et al. shows all of the limitations of the claims except for specifying a single host site and particular software services, including credit card processing, calculation of taxes, warehouse management, shipping and invoicing.

Halliday et al. shows, figure 4, a system for accurate time and usage based metering of client application or client application feature usage and the reporting of said usage to a site on a public network.

From page 3, second column:

A basic overview of operation of the present invention is as follows:

A user will first create an account with the central billing site 1J and add some credit to his account using well known financial on site or remote transaction facilities and methods.

The user will then load from a data storage medium (such as a magnetic disk or tape, optical disk including CD ROM and DVD, electronic storage media including ROMcard and RAM-card, or any other suitable data storage means), or download from

a proprietor's website to his local computer, one or more specially configured software packages. These packages may include, in addition to the client application, an application library (solution stack) having metering means for developing and communicating usage information to an also included metering monitor. An included login tool (request for a transaction) provides an interactive front end to the metering monitor and enables the user to logon to the remote metering system (integration block, single point access). The logon process will map the local user on the client computer to an account held in the remote database, and such account will be charged as usage of an application is accumulated. Once logged on, any applications running (evidence of accessing and providing results) as a local user will be charged to the remote account. The metering monitor software on the client computer is responsible for accepting usage information from a client application and forwarding that information to the central billing server. Further, the metering monitor is operative to track application exits and to close charging sessions for applications that exit spuriously. In an alternative embodiment of the present invention, the metering monitor may also act as a proxy server, accumulating metering information and forwarding the information as a batch to the central server at periodic intervals set by the server. This is intended to minimize the amount of time the client computer needs to be in contact with its metering server.

Applications are executed. As the applications execute vendor code calls (determining s/w programs) to the client library to indicate that features are in use, the library will forward this information to the metering monitor. The metering monitor will

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then associate this application with a server account via the map of logged-in users and forward the information to the metering server.

Halliday teaches, paragraph [0061], "It is well known to those skilled in the art that the environment described in FIG. 1 can also exist at a single location where no public network is involved. It should also be clear that the database host 1H can be distributed across a plurality of sites, or be replicated across a plurality of sites. It is also important to note that the public host (1F) and secure host (1G) roles can be performed by a single component."

Based on the teachings of Halliday, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the shown embodiment shown in figure 1 of Halliday to collocate the host and proprietor's websites in order to maximize computer efficiency.

Suorsa teaches, column 2, line 17, credit card processing software.

Yu teaches, column 2, line 65, calculation of taxes software.

Taylor et al. teaches, column 9, lines 12-13, warehouse management software.

Vaghi teaches, column 2, line 55, shipping software.

Roche teaches, column 8, line 68 invoicing software.

Based on the teachings of Suorsa, Yu, Roche, Vaghi and Taylor et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to specify known software applications, including credit card processing, calculation of taxes, warehouse management, shipping and invoicing software, as part of the Halliday

application library in order to generate greater revenue from the usage of known software.

Examiner, per 37 CFR 1.104 (c) (2), has pointed out particular references contained in the prior arts of record in the body of this action for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts of disclosed by the examiner.

#### ***Response to Arguments***

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (571) 272-6778. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Cuff/

Primary Examiner, Art Unit 3627